

REMARKS

Claims 1-17 are pending in this application. By this Amendment, claims 1, 3-6 and 8-12 are amended. for form and clarity. Support for the amendment to claim 8 can be found in the specification, for example, at page 6, lines 19-27 and page 7, line 32 to page 8, line 25.

No new matter is added.

The Office Action rejects claims 8 and 9 under 35 U.S.C. §101 as being directed toward non-statutory subject matter. The rejection is respectfully traversed.

By this Amendment, independent claim 8 is amended responsive to the rejection. More specifically, the means for estimating, means for comparing, and means for authorizing language are now omitted, thereby directing claim 8, and claim 9 depending therefrom, to a patent-eligible process. Applicants thus respectfully request withdrawal of the rejection.

Claims 1-17 are rejected under 35 U.S.C. §112, second paragraph. The rejection is respectfully traversed.

Regarding claim 6, by this Amendment claim 6 is amended responsive to the rejection, correcting antecedent basis. Regarding the rejection of claims 1-17, by this Amendment claims 1-17 have been amended to omit references to the drawings. Applicants thus respectfully request withdrawal of the rejection.

Claims 1, 4, 7-9 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Benveniste et al. (U.S. Patent Application Publication No. 2005/0009533), in view of Shankar et al. (QoS Signaling for Parameterized Traffic in IEEE 802.11e Wireless LANs). The rejection is respectfully traversed.

Benveniste and Shankar do not teach and would not have rendered obvious every claimed feature of independent claims 1 and 8. Benveniste and Shankar do not teach "estimating a bit rate value for at least one initialization packet received by the monitoring server; comparing that value to a maximum authorized bit rate value; and authorizing

transmission of the initialization packet only if the bit rate value for that initialization packet does not exceed the maximum authorized bit rate value," as recited in independent claim 1, or "estimating a bit rate value for at least one initialization packet received by the monitoring server; comparing that value to a maximum authorized bit rate value; and authorizing transmission of the initialization packet only if the bit rate value for that initialization packet does not exceed the maximum authorized bit rate value," as recited in independent claim 8.

The Office Action asserts that Benveniste teaches the steps of comparing the estimated bit rate value of a received packet to a maximum authorized bit rate value, and authorizing transmission of the packet only if the bit rate value for that initialization packet does not exceed the maximum authorized bit rate value. However, Benveniste merely relates to a quality-of-service and call admission control that allows the set-up of calls in wireless networks. More particularly, these calls are set up based upon steps of determining available bandwidth, comparing this available bandwidth to call requirements, and then allowing a call depending upon the available bandwidth. However, the bit rate value of initialization message packets is not compared to the bit rate value of packets carrying multimedia contents. In fact, one cannot determine the available bandwidth based upon the bit rate value of initialization message packets. Therefore, in Benveniste, evaluating the bit rate value of initialization message packets would be meaningless.

Thus, not only does Benveniste not disclose or suggest a step of estimating a bit rate value of an initialization packet, and comparing that value to a maximum authorized bit rate value, but one skilled in the art would have been diverted from using such a step in Benveniste since it would not help in solving that problem. The problem solved by Benveniste is far different from the one solved by the current application. In the current application, the issue involves the billing of multimedia streams exchanged over a network. In Benveniste, the issue concerns the estimation of available bandwidth given the current

usage in order to determine whether a new call should be set up. There is no need in this determination to estimate the bit rate value for initialization packets independently of other packets.

Furthermore, Benveniste did not foresee the use of initialization packets to transmit content data. As a consequence, one skilled in the art would not be prompted to modify the teaching of Benveniste in order to achieve the presently claimed invention. In the current application, instead of monitoring all packets, the goal is to filter out and direct initialization message packets to a monitoring server, and without analyzing their contents, determine if they meet the appropriate standards so as to avoid elicit exchanges of multimedia information over the network concealed within these initialization message packets. This is accomplished by estimating the bit rate value of initialization packets and comparing them to the maximum authorized bit rate value, and it is independent of the available bandwidth, which is what Benveniste attempts to measure. Therefore, Benveniste in view of Shankar does not teach the features of independent claims 1 and 8.

Therefore, for at least these reasons, Applicants respectfully submit that independent claims 1 and 8 are patentable over Benveniste and Shankar. Claims 4, 7, 9 and 15 variously depend from independent claims 1 and 8. Therefore, claims 4, 7, 9 and 15 are also patentable over Benveniste and Shankar for at least their dependency on independent claims 1 and 8, as well as for the additional features they recite. Applicants thus respectfully request withdrawal of the rejection.

Claims 2, 11 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Benveniste, in view of Shankar, in further view of Vaid et al. (U.S. Patent No. 5,502,131); claims 3, 12 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Benveniste, in view of Shankar, in further view of Chen et al. (U.S. Patent No. 6,487,170); claims 5, 6, 16 and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over

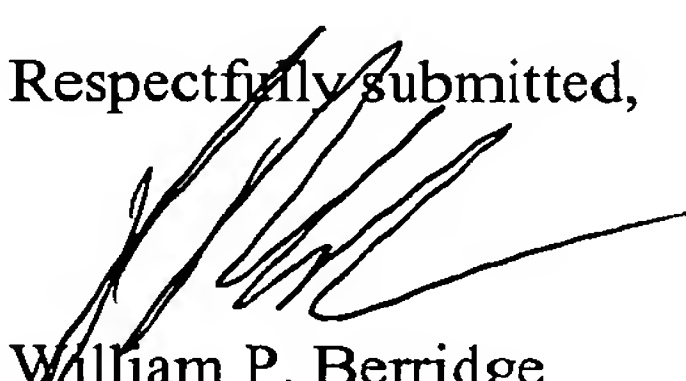
Benveniste, in view of Shankar, in further view of Ballew (Managing IP Networks with Cisco Routers); and claim 10 is rejected under 35 U.S.C. §103(a) as being unpatentable over Benveniste, in view of Shankar, in view of Vaid, and in further view of Chen. The rejections are respectfully traversed.

Claims 2, 3, 5, 6, 10-14, 16 and 17 depend from independent claim 1. Therefore, claims 2, 3, 5, 6, 10-14, 16 and 17 are also patentable over the above-applied references for at least their dependency on independent claim 1, as well as for the additional features they recite. Applicants thus respectfully request withdrawal of the rejections.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



William P. Berridge
Registration No. 30,024

Patrick T. Muffo
Registration No. 60,342

WPB:EXH/scg

Date: July 24, 2009

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
